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Lori Wright
UNH Media Relations

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UNH Education Law Expert: Zero Tolerance Is Not The Answer To Sexting

February 15, 2012

DURHAM, N.H. – Rigid, zero-tolerance policies to prevent sexting that do not allow for discretion and the ability to address sexting in the context of the situation are ineffective strategies for dealing with this troubling trend, according to a University of New Hampshire professor who studies legal issues in education.

"Zero tolerance for sexting, without an understanding of context, replaces common sense with a rigid response that may be equally administered but is not fair. Turning over alleged sexters to the police for criminal prosecution may meet the dictates of the law, but school officials should have some leeway in turning over the matter to the police," says Todd DeMitchell, professor of education and justice studies at UNH.

DeMitchell outlines his recommendations in the "Cardozo Public Law, Policy and Ethics Journal" in the article "Student Victims or Student Criminals? The Bookends of Sexting in a Cyber World." Martha Parker-Magagna, a doctoral candidate of education at UNH, is a co-author.

"School officials walk the tightrope of responding to sexting in an appropriate way with little guidance as to how to differentiate between a heinous crime better handled by the police and clearly inappropriate adolescent behavior best handled by the school and the parents," he says.

When sexting is discovered by school officials, DeMitchell recommends that school officials first notify a student's parents. "Often resolving sexting can be as simple as bringing the behavior to the attention of the parents in order to curb or stop it. Schools must be unequivocal in considering sexting inappropriate and meeting the sharing of photos and texts with a swift and sure response," he says.

In addition, schools must be acutely aware that sexting may trigger bullying and peer sexual harassment. Such behavior must be dealt with firmly and immediately by school administrators through existing policies allowing for disciplinary action in response to bullying or harassment.

"The taunting of students at school should never be met with indifference and silence. No student should have to run a gauntlet of abuse in order to attend school," DeMitchell says.

At the same time, district attorneys must weigh whether prosecution is the best approach to dealing with a sexting incident or whether education is a better approach. DeMitchell stresses that society's fundamental interest in protecting children cannot be lost in a zero-tolerance type of response to sexting.

Finally, lawmakers must fashion a reasonable response to sexting that acknowledges the harm created while not condemning students found sexting to a marginalized life through prosecution for child pornography, he says.

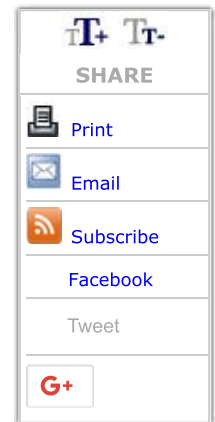
"Sexting is a new challenge. How schools and society respond to sexting will speak to the type of society we construct for ourselves and our children," DeMitchell says.

The University of New Hampshire, founded in 1866, is a world-class public research university with the feel of a New England liberal arts college. A land, sea, and space-grant university, UNH is the state's flagship public institution, enrolling 12,200 undergraduate and 2,300 graduate students.

Photo

Prof. Todd DeMitchell

<http://www.unh.edu/news/img/demitchell.jpg>.



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Media Contact: [Lori Wright](#) | 603-862-0574 | UNH Media Relations

Secondary Contact: [Todd DeMitchell](#) | 603-862-5043 | UNH Department of Education

UNH Experts available for comment:

- [Todd DeMitchell](#)

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